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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,839	06/15/2000	James Anthony	2629-4017	3097

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EXAMINER

CHUNDURU, SURYAPRABHA

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/594,839

Applicant(s)

ANTHONY ET AL.

Examiner

Suryaprabha Chunduru

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26-36 and 38-55 is/are pending in the application.
- 4a) Of the above claim(s) 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24, 26-36, 38-46 and 48-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicants' response to the office action filed on September 06, 2006 has been entered.

Status of the Application

2. Claims 1-24, 26-36, 38-46, 48-55 are pending. Claims 25 and 37 are cancelled. Claim 47 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group. Applicants' arguments are fully considered and found persuasive in part for the reasons that follow. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. This action is made Final.
3. The Information Disclosure Statement filed on November 01, 2006 has been entered and considered.

Response to arguments:

4. With regard to the rejection of claims 22-24, 30-31, 33, and 36 under 35 USC 102(b) as being anticipated by Chandler et al., Applicants' arguments are fully considered and found unpersuasive. Applicants argue that Chandler et al does not anticipate the instant claims because the signal probe taught by Chandler et al. is labeled, as opposed to the unlabeled signal sequence probe (SSP) as claimed in the instant claims. Applicants' arguments are fully considered and found unpersuasive. In the light of the instant specification signal sequence probe comprises multiple sets of repeat sequences or poly(dT) DNA sequences and (see specification page 7, line 14-30, page 8, line 1-2), which clearly read on the Chandler's poly(dA) tailed capture probe and the signal sequence probe taught by Chandler et al. reads on a capture sequence probe (CSP). Thus the probes (CSP and SSP) taught by Chandler can be interpreted as vice versa. Thus Chandler et al. does anticipate the instant claims, wherein the signal sequence probe is a

poly(dA)-capture probe and the capture probe is labeled RNA probe. Thus the probes taught by Chandler et al. does anticipate the instant claims and therefore the rejection is maintained herein.

5. With regard to the rejection of claims 1-21, 32, 38-46, 48-55 under 35 USC 103(a) over Collins in view of Murakami et al and Shah et al., Applicants' arguments are fully considered and the rejection is withdrawn herein in view of the persuasive arguments.

6. With regard to the rejection of claims 26-29, 34-35 under 35 USC 103(a) over Chandler et al. in view of Shah et al., Applicants' arguments are fully considered and found unpersuasive.

Applicants argue that Chandler et al. does not teach unlabeled signal sequence probe and therefore the combination of Shah et al. does not make the instant claims obvious. Applicants' arguments are found unpersuasive because, as discussed above, Chandler et al. does teach unlabeled SSP and therefore as discussed in the rejection it is obvious to combine the teachings of Chandler et al. in a manner taught by Shah et al. to develop a sensitive method for detecting target nucleic acid. Therefore the rejection is maintained herein.

7. With regard to the rejection of claims 1-24, 26-36, 38-46, 48-55 under provisional obviousness type double patenting, Applicants' arguments are fully considered and the rejection is maintained as long as the scope of the instant claims remain within the scope of the claims in the co-pending application.

Conclusion

Claims 1-21, 32, 38-46, 48-55 are free of prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suryaprabha Chunduru whose telephone number is 571-272-0783. The examiner can normally be reached on 8.30A.M. - 4.30P.M , Mon - Friday,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Suryaprabha Chunduru
Primary Examiner
Art Unit 1637

Suryaprabha Chunduru
SURYAPRABHA CHUNDURU 11/9/06
PATENT EXAMINER